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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,216	03/19/2001	Raphaelle Mauger	Q63628	6927

7590 11/24/2003

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[REDACTED] EXAMINER

[REDACTED] PHTU, SANH D

ART UNIT	PAPER NUMBER
2682	

DATE MAILED: 11/24/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/810,216	MAUGER, RAPHAELLE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sanh D Phu	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Information Disclosure Statement***

1. The IDS filed 03/19/01 has been considered and recorded in the file

***Claim Objections***

2. There are two claims, which are numbered as claim 10. Appropriate correction is required.

***Claim Rejections – 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1–20 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

Claim(s) 1– 10 are narrative in form and do not contain positively recited steps of a specific process. Note that method claims should set forth a series of steps in the active tense in an instruction-like manner thereby reciting an actual method. Dependent claims should further limit base claims by reciting additional steps in a likewise fashion. Ex parte Erlich 3USPQ2d 1011 at 1017[6].

The claim(s) 11–20 are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

***Claim Rejections – 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1–5, 8–15, 18–20 are rejected under 35 U.S.C 102(e) as being anticipated by Oltedal et al (6,611,694).

Regarding to claim 1 and 11, see Fig. 1 and 2. Oltedal et al discloses that a method and associated system, in which, said tandem free operation mode is used, with an authorized coding mode (HR coding mode, FR coding mode and EFR coding mode), wherein said authorized coding mode is supported (col. 3, line 34–36).

Regarding to claim 2 and 12, Oltedal et al discloses that if said tandem free operation mode is established when a negotiation was initiated during call set-up, the Bearer Capability contains two fields which are a preferred and a default (or fallback) field, if the Gateway does not support the preferred Bearer Capability (the Gateway does not support an unauthorized coding mode), the default field is applied (the default field is said authorized coding mode which is supported by the Gateway) (see col. 3, line 48–51).

Regarding to claim 3 and 13, Oltedal et al discloses that if said negotiation was initiated during call set-up match the default field, there is no need for said tandem free operation mode (see col. 3 line 53).

Regarding to claim 4 and 14, see Fig. 3, Oltedal et al discloses that if said negotiation was initiated during call set-up do not match the default field

(which is preferred field), said tandem free operation mode is wanted (see col. 3 line 52, 64–65).

Regarding to claim 5 and 15, Oltedal et al discloses that the method/system of tandem free operation mode, wherein said system is the GSM (see col. 1, line 52).

Regarding to claim 8 and 18, Oltedal et al discloses that one authorized coding mode is the full rate mode (see col. 3, line 35).

Regarding to claim 9 and 19, Oltedal et al discloses that one authorized coding mode is the enhanced full rate mode (see col. 3, line 36).

Regarding to claim 10 and 20, Oltedal et al discloses that one authorized coding mode is the half rate mode (see col. 3, line 34–35).

***Claim Rejections – 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6, 7, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oltedal et al in view of the prior art admitted by the applicant in the specification of the current application.

Regarding to claim 6, 7, 16 and 17, Oltedal et al discloses that said authorized coding are Haft-Rate (HR), Full-Rate (FR) and Enhanced-Full-Rate (EFR)

Oltedal et al does not disclose that an adaptive multirate (AMR) coding.

However, it is well known in the art that AMR coding is not suitable for the TFO mode. Note that the applicant also admits that the TFO mode cannot be used with the AMR (see page2, line 13). Therefore, it would have been obvious for one skilled in the art when carrying out or building the Oltedal et al method/system to the unauthorized coding mode or the AMR coding mode.

### *Conclusion*

6. References Oestreich (6349197), DeMartin et al (6421527) are additionally cited because they are pertinent to the claimed invention.

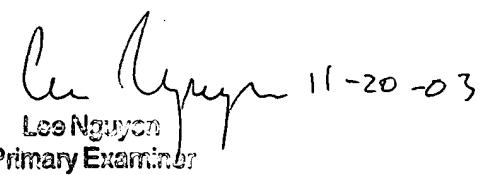
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanh D Phu whose telephone number is (703) 305-8635. The examiner can normally be reached on 8:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-301-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-8635.

Sanh D. Phu  
Examiner  
Art Unit 2682

SP

  
Lee Nguyen 11-20-03  
Primary Examiner